

# Appendix A

**APPENDIX A — OVERT ACTS CHART**

| <b>OVERT ACT<br/>NUMBER</b>      | <b>DESCRIPTION</b>   | <b>WITNESSES</b>  | <b>EXHIBITS</b>   |
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| 1<br><br>Count 1<br>Paragraph 22 | Between in or about 2008 and in or about 2017, Masecchia, working with others, paid the defendant BONGIOVANNI, who accepted, bribes on a recurring basis totaling approximately at least \$250,000 in United States currency in exchange for protection from arrest and prosecution.   | Lou Selva<br>Ron Serio<br>Curtis Ryan<br>Brian Burns<br>John Robinson | 8<br>8A-8M<br>100<br>100A<br>100A.1<br>100B.5<br>109 (series)<br>143A-1<br>145<br>200A (series)<br>201<br>208 (series)<br>209<br>213 (series)<br>264-281B<br>296A-B |
| 3<br><br>Count 1<br>Paragraph 24 | On or about November 25, 2012, the defendant BONGIOVANNI learned that friends and associates of individuals paying him bribes were arrested by the New York State Police in relation to the seizure of marijuana, U.S. currency, and other items, and the defendant BONGIOVANNI began acquiring information about the arrests and made arrangements to open a DEA case to take control of the case from the New York State Police. | Ron Serio<br>Lou Selva<br>Mike O'Rourke                               | 100A<br>100A.1<br>8<br>8A-8M  |
| 4<br><br>Count 1<br>Paragraph 25 | On or about November 28, 2012, the defendant BONGIOVANNI authored a DEA 6 summary report and caused the initiation of DEA Case Number C2-13-0026.  | Ron Serio<br>Lou Selva<br>Mike O'Rourke<br>Shane Nastoff              | 8M (Summary<br>Report 11/28/12)<br>100A<br>100A.1<br>8<br>8A-8N   |
| 5<br><br>Count 1<br>Paragraph 26 | On or about December 24, 2012, the defendant BONGIOVANNI caused the preparation of DEA 202 forms adding target names to the file in DEA Case Number C2-13-0026, including the names of drug traffickers and associates who were paying him bribes.   | Shane Nastoff<br>David Leary<br>Louis Selva<br>Ron Serio              | 8A-1<br>8A-3<br>8A-4  |
| 6<br><br>Count 1<br>Paragraph 27 | On or about December 24, 2012, the defendant BONGIOVANNI caused the DEA preparation and entry of three (3) separate DEA 202 forms in DEA Case Number C2-13-0026 with signatures that do not belong to the DEA Special Agent listed as the co-case agent on the DEA 202 form.   | Shane Nastoff<br>Lou Selva<br>Ron Serio<br>Dave Leary                 | 8A-1<br>8A-3<br>8A-4  |
| 7<br><br>Count 1<br>Paragraph 28 | In or about January 2013, the defendant BONGIOVANNI submitted names, including the names of drug traffickers and associates who were paying him bribes, and the defendant's contact information, to "Safety-Net," a state de-confliction system.   | Mike O'Rourke   | 100A<br>100A.1 (Safety-Net<br>documents)<br>8A-3<br>8A-4<br>8K  |

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| 8<br>Count 1<br>Paragraph 29  | In or about April 2013, the defendant BONGIOVANNI became aware of an individual, known to the Grand Jury, who could cooperate against the drug traffickers paying the defendant BONGIOVANNI bribes, and the defendant BONGIOVANNI signed up the individual as a DEA confidential source ("CS") with himself as the handling agent.   | Joanne Dinoto<br>Robert Cottrell<br>[REDACTED]<br>Shane Nastoff<br>Mark Gentile<br>Francis DiCarlo<br>Ron Serio<br>Lou Selva            | 8I<br>9<br>9E-1<br>9E-2<br>9E-3<br>9E-4          |
| 10<br>Count 1<br>Paragraph 31 | On or about May 2, 2013, in DEA Case Number C2-13-0026, the defendant BONGIOVANNI indexed names related to individuals who were paying the defendant BONGIOVANNI bribes to give the appearance of legitimate investigation and so that DEA de-confliction database procedures would alert him if other members of law enforcement were investigating the individuals and associates of individuals who were paying the defendant BONGIOVANNI bribes. | Shane Nastoff<br>John Flickinger<br>Brian Burns<br>Curtis Ryan<br>Ron Serio   | 8<br>8A<br>8I<br>100A<br>100A.1                  |
| 11<br>Count 1<br>Paragraph 32 | Between on or about April 29, 2013, and on or about September 9, 2013, the defendant BONGIOVANNI ensured that the CS provided no cooperation against the drug traffickers who were paying him bribes, and on September 9, 2013, the defendant BONGIOVANNI caused the completion of form DEA-512(d) deactivating the DEA CS.  | Lou Selva<br>Ron Serio<br>Robert Kaiser (SA Adam Penna)<br>Shane Nastoff<br>Scott Deming<br>Dave Turri<br>Mark Gentile<br>Joanne DiNoto | 8<br>8A<br>9<br>9C<br>9E-2<br>9E-3<br>9E-4<br>9F |
| 12<br>Count 1<br>Paragraph 33 | On or about May 23, 2013, defendant BONGIOVANNI sent an email regarding DEA Case Number C2-13-0026 to members of the United States Attorney's Office, Western District of New York, and a Special Agent with the Internal Revenue Service (IRS) stating that "we are making strides in the street and will report back soon."  | Scott Deming  | 22-22S   |
| 13<br>Count 1<br>Paragraph 34 | On or about June 18, 2013, a fellow DEA agent conducted surveillance on a warehouse in Buffalo, New York that was controlled by a coconspirator who was a source of bribe payments to the defendant BONGIOVANNI, and after the fellow DEA agent made relevant observations, the fellow DEA agent was advised by the defendant BONGIOVANNI to discontinue the surveillance.   | David Leary   | 8H   |
| 14<br>Count 1<br>Paragraph 35 | On or about July 11, 2013, the defendant BONGIOVANNI received an email from a fellow member of law enforcement advising him, in part, that "Masecchia is an associate and possibly made member of the Buffalo LCN family," an IOC group operating in Buffalo, New York, and elsewhere.   | David Turri<br>Lou Selva  | 22S  |

<sup>1</sup> The transcript of [REDACTED] trial testimony in *Bongiovanni I* was read into the record by FBI SA Adam Penna.

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| 15<br><br>Count 1<br>Paragraph 36 | On or about July 16, 2013, the defendant BONGIOVANNI sent an email to members of the United States Attorney's Office, Western District of New York, and a Special Agent with the IRS, and copied his supervisor in the DEA Buffalo Resident Office, that read in part "we are working on GPS warrant for trackers to locate these grow operation [sic] a CI [confidential informant] reported they are turning the grow over in 8 to 9 weeks. Joe." | Scott Deming   | 22F<br>22    |
| 16<br><br>Count 1<br>Paragraph 37 | On or about July 30, 2013, defendant BONGIOVANNI notified the DEA CS he/she would be deactivated as a DEA CS pursuant to BONGIOVANNI's entry in Confidential Source Deactivation form DEA-512d.   | ██████████ (Adam Penna)<br>Mark Gentile<br>Scott Deming  | 9E-3<br>22P  |
| 17<br><br>Count 1<br>Paragraph 38 | On September 9, 2013, the defendant BONGIOVANNI de-activated the CS who had an ability to cooperate in DEA Case Number C2-13-0026, and falsely stated in the "Confidential Source Deactivation" form DEA-512d, "The CS can no longer provide services or information for any open investigation."   | ██████████ (Adam Penna)<br>Mark Gentile<br>Lou Selva<br>Ron Serio<br>Shane Nastoff<br>David Leary<br>John Flickinger | 9E-3<br>9E-4 |
| 18<br><br>Count 1<br>Paragraph 39 | On or about September 9, 2013, the defendant BONGIOVANNI caused the preparation and entry of "Confidential Source Deactivation" form DEA-512d with a false and fraudulent signature line for the co-case agent.   | ██████████ (Adam Penna)<br>Mark Gentile  | 9E-3         |
| 19<br><br>Count 1<br>Paragraph 40 | On or about September 11, 2013, the defendant BONGIOVANNI prepared a DEA 6 report in DEA Case Number C2-13-0026 wherein he made false, fraudulent, fictitious, and misleading statements as follows: "Agents are presently waiting for approval from the United States Attorney's Office (WDNY) to utilized [sic] GPS trackers to aid in the investigation."  | Timothy Lynch<br>Kevin Caffery   | 8G<br>135    |
| 20<br><br>Count 1<br>Paragraph 41 | On or about September 26, 2013, the defendant BONGIOVANNI met with other members of law enforcement and an Assistant United States Attorney at the United States Attorney's Office for the Western District of New York regarding in DEA Case Number C2-13-0026 during which meeting, specific investigative techniques were discussed.   | Timothy Lynch<br>Lou Selva<br>David Leary  | 8G           |
| 21<br><br>Count 1<br>Paragraph 42 | On or about December 31, 2013, the defendant BONGIOVANNI made false and misleading statements in a DEA 6 report in DEA Case Number C2-13-0026.  | Ron Serio<br>Brian Burns   | 8F           |
| 22<br><br>Count 1<br>Paragraph 43 | On or about April 7, 2014, the defendant BONGIOVANNI made false and misleading statements in a DEA 6 report in DEA Case Number C2-13-0026.  | Ron Serio<br>Brian Burns   | 8E           |
| 23                                | On or about July 7, 2014, the defendant BONGIOVANNI made false and misleading   | Ron Serio<br>Brian Burns   | 8D           |

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| Count 1<br>Paragraph 44           | statements in a DEA 6 report in DEA Case Number C2-13-0026.   |  |    |
| 24<br><br>Count 1<br>Paragraph 45 | Between on or about April 30, 2013, and on or about November 4, 2014, the defendant BONGIOVANNI made false representations regarding DEA Case Number C2-13-0026 to others in law enforcement that he did not have a source who could provide information about the locations of marijuana grow operations being controlled and operated by those who were paying the defendant BONGIOVANNI bribes. <sup>2</sup>                                     | Scott Deming<br>Dave Turri<br>David Leary  |    |
| 25<br><br>Count 1<br>Paragraph 46 | Between in or about 2008 and in or about 2017, during routine and recurring meetings with individuals paying the defendant BONGIOVANNI bribes, the defendant BONGIOVANNI passed along information regarding specific techniques utilized or being considered by other members of law enforcement in DEA Case Number C2-13-0026.   | Lou Selva<br>Ron Serio   |    |
| 26<br><br>Count 1<br>Paragraph 47 | During conversation with other members of law enforcement involved in the investigation of DEA Case Number C2-13-0026, the defendant BONGIOVANNI falsely stated that he did not have a confidential informant and, as a result, marijuana grow locations could not be located to further the investigation in DEA Case Number C2-13-0026.   | David Leary<br>Dave Turri<br>Scott Deming  |    |
| 27<br><br>Count 1<br>Paragraph 48 | On or about November 4, 2014, in preparation for closing DEA Case Number C2-13-0026, the defendant BONGIOVANNI prepared a DEA 6 report wherein he made false, fraudulent, fictitious, and misleading statements as follows: "The confidential informant associated with this case/file is no longer viable and can not provide credible information in furtherance of this investigation. This agent will not [sic] prepare this case for closure." | David Leary<br>Dave Turri<br>Scott Deming<br>Mark Gentile<br>Shane Nastoff<br>Robert Kaiser (Adam Penna)<br>JoAnne Dinoto<br>Robert Cottrell<br>Lou Selva<br>Ron Serio | 8C |
| 28<br><br>Count 1<br>Paragraph 49 | On or about January 28, 2015, the defendant BONGIOVANNI prepared a DEA 6 report in DEA Case Number C2-13-0026 officially closing the DEA file related to investigation of individuals and associates of individuals who were paying him bribes.   | David Leary<br>Dave Turri<br>Scott Deming<br>Mark Gentile<br>Shane Nastoff<br>[REDACTED] (Adam Penna)<br>JoAnne Dinoto<br>Robert Cottrell<br>Lou Selva<br>Ron Serio    | 8B |

<sup>2</sup> Contrast with Gov. Ex. 9E-2, 9E-3, and 9E-4, and the testimony of [REDACTED] (as read by FBI SA Adam Penna) and Ron Serio.